REMARKS

Claims 1-34 and 36-45 were presented for examination and were pending in this application. In a *Final Office Action* dated July 15, 2005, claims 1-28, 30-34, 36-43 and 45 were rejected; claim 44 was allowed, and claim 29 was objected to. On August 22, 2005, an interview took place between Examiner Aravind Moorthy and Applicants' representative, Dorian Cartwright. Applicants have amended claims herein to further clarify the invention, and not in response to the cited references. The amendments add no new matter. Applicants have canceled claims herein. Applicants thank Examiner for allowing claim 44 and the subsequent interview. Applicants request entry of the amendments and address Examiner's comments below

I.   Rejections Under § 102(e) – Zargorski I and II

In paragraph 8 of the Office Action, Examiner rejected claims 1-5, 8-20, 23-28, 30, 33, 34 and 39-45 under 35 U.S.C. § 102(e) as being anticipated by Zargorski (U.S. Patent No. 6,789,216)("Zargorski I"). Applicants respectfully traverse this rejection. During the interview, Applicants' representative pointed out that Zagorski I was filed after the priority date of the present patent application. Examiner clarified that Zargorski I is a continuation of Zagorski (U.S. Patent No. 6,490,695)("Zagorski II") which was filed before the priority date of the present application. Zagorski II contains portions of text cited by the Office Action from Zargorski I.

Independent Claims 1, 4, 19, 26, 30, 33, 34, 39 and 43-45

Each of the rejected independent claims recites a step of identifying or a step of inferring that occurs through network communications. For example, claim 1 teaches identifying an operating system of a remote host; identifying a service of the remote host; and identifying a vulnerability on the network. Examiner agreed to withdraw the rejection based on Zagorski I, and not to reject claims based on Zagorski II, because neither reference teaches or suggests identification or inferring through a network as the processes associated with Zagorski I and II occur on a local machine. Additionally, Zagorski I and II, in disclosing analysis architectures for memory images in computer

programs, are not related to the field of vulnerability detection, and fail to disclose identification of vulnerabilities as recited in, for example, claim 1. Thus, Applicants submit that the rejected independent claims (i.e., claims 1, 4, 19, 26, 30, 33, 34, 39 and 43-45), and related dependent claims, are patentable over both Zagorski I and II.

II.   Rejections Under § 102(e) – Arnold

In paragraph 9 of the Office Action, Examiner rejects claims 31, 36 and 38 under 35 U.S.C. § 102(e) as being anticipated by Arnold (U.S. Patent No. 5,440,723). Applicants respectfully traverse this rejection.

Independent Claim 31

Claim 31 is directed to a method of examining a network. The method includes the steps of, in part: receiving responsive packets from a host; comparing inferential information in the responsive packets to information stored in a database; and identifying a Trojan application on the network.

Arnold discloses periodic monitoring of a data processing system for anomalous behavior that may indicate the presence of an undesirable software entity such as a computer virus, worm, or Trojan Horse. (Arnold 4:61-66). Arnold further disclosures that an anomaly detection process runs continually as a foreground or background task on the subject computer. (See Arnold 5:2-26).

Arnold fails to teach or suggest each of the limitations recited in claim 31. First, whereas packets are received from a host on the network in claim 31, the process of Arnold is limited to interactions on the subject computer where conditions can be explicitly determined. It follows that Arnold cannot identify a Trojan application from inferential information in the received packets of claim 31. Thus, Applicants submit that claim 31 is patentable over Arnold.

Independent Claim 36

Amended claim 36 is directed to a system for examining a network. The system includes, in part, a packet generator that transmits packets to a remote host on the

network; and a comparison unit that receives a set of reflex packets from the remote host to identify one or more vulnerabilities on the remote host.

Arnold fails to teach or suggest each of the limitations recited in claim 36. Foremost, in detecting present attacks on the subject computer (i.e., through a virus, worm or Trojan Horse), Arnold fails to disclosure identifying a vulnerability (i.e., a potential attack) as recited in claim 36. Also, and as discussed with respect to claim 31, Arnold is limited to interactions on the subject computer when detecting. Thus, Applicants submit that amended claim 36, and related dependent claims, are patentable over Arnold.

III.   Rejections Under § 102(e) – Diersch

In paragraph 10 of the Office Action, Examiner rejects claim 32 under 35 U.S.C. § 102(e) as being anticipated by Diersch (U.S. Patent No. 6,101,606). Applicants respectfully traverse this rejection.

Independent Claim 32

Claim 32 is directed to a method of examining a network. The method includes the steps of, in part: receiving responsive packets; comparing inferential information in the responsive packets to information stored in a database; and identifying unauthorized software use.

Diersch discloses an authorization component provided with information necessary for the authorization of program usage. (Diersch 5:14-16). Diersch further discloses a query for explicit information from a program to a module, the query asking: Is the identification code known? Is the license name available or known? (See Diersch 5:30-43). Diersch also discloses blocking use of the program if any question is answered with no. (Diersch 5:47-49).

Diersch fails to teach or suggest each of the limitations as recited in claim 32. Whereas claim 32 uses inferential information to identify unauthorized software use, Diersch presents an explicit query requiring explicitly answers in order to authorize a program.

IV.   Objection

In paragraph 14 of the Office Action, Examiner objects to claim 29 as being dependent upon a rejected base claim, but indicates that it would be allowable if rewritten in independent form including all of the limitations of the base claim. However, since claim 29 depends from allowable base claim 26, such amendment is not necessary. Thus, Applicants have respectfully obviated the objection.

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CONCLUSION

In sum, Applicants respectfully submit that the claims as presented herein, are patentably distinguishable over the cited references either alone or in combination (including references cited, but not applied). Therefore, Applicants request reconsideration and allowance of these claims.

In addition, Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

RESPECTFULLY SUBMITTED,

Date: August 26, 2005

By: _____

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